

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

CONCRETE INDUSTRIES, INC.,

Plaintiff,

VS.

**DOBSON BROTHERS CONSTRUCTION
and WESTERN SURETY COMPANY,**

Defendants.

8:07CV192

ORDER

This matter is before the court on the defendants' request for place of trial in Lincoln, Nebraska (Filing No. 33). The request was filed as part of the defendants' Answer. This case was initially designated for trial in Omaha, Nebraska upon transfer of the case from the United States District Court for the District of Kansas, in accordance with the Civil Rules of the United States District Court for the District of Nebraska. **See** NECivR 40.1(c).

The relevant local rule, NECivR 40.1(b) provides:

The . . . removing party at the time of filing a petition for removal shall make written request for trial of the case at Omaha, Lincoln, or North Platte. . . . [T]he plaintiff in a removed action within ten (10) days after service of the notice of removal, may file a written request for trial at Omaha, Lincoln, or North Platte. If the request is for a place different from that requested by the plaintiff, third-party plaintiff, or removing party, it must be accompanied by a supporting affidavit.

NECivR 40.1(b).

Under the circumstances, the court will allow the plaintiff an opportunity to file a motion requesting a different location for trial. Accordingly,

IT IS ORDERED:

The plaintiff shall have to **on or before June 15, 2007**, to file a motion requesting the trial of this matter be in either Omaha or North Platte, Nebraska. Otherwise, the case will be designated for trial in Lincoln, Nebraska.

DATED this 1st day of June, 2007.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge